

Before the
UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Glenwood, Mississippi 36034

Docket No. A2012-25

PUBLIC REPRESENTATIVE'S REPLY COMMENTS

(December 30, 2011)

I. INTRODUCTION

This case concerns several appeals of the Postal Service's decision to close the Glenwood Alabama Post Office and to provide the former patrons of that office with service out of the Luverne Post Office. The Luverne Post Office is located north and west of Glenwood. Retail services may also be obtained at the Goshen Post Office, about 6 miles away.

The appeals were filed by Sylvester Boyd, on behalf of Concerned of Glenwood; Enid C. Folmar, who is a retired postmaster; Wayne Gibson, who readily acknowledges he owns the building in which the Glenwood Post Office is located; and Mayor Dan Jackson.¹

The Commission, in keeping with its practice for handling multiple appeals, identified one petitioner — Mayor Jackson — as the named petitioner for administrative purposes. Mayor Jackson and the three other petitioners also filed timely Participant Statements.²

¹ See Petition of Concerned Citizens of Glenwood, filed by Sylvester Boyd; Petition of Wayne Gibson, Petition of Enid C. Folmar, and Petition of Mayor Dan Jackson. Commission Order No. 929, which accepted the Petitions, was issued October 26, 2011.

² See Participant Statement of Dan Jackson, Mayor, Town of Glenwood, filed November 21, 2011; Participant Statement of Enid C. Folmar; Participant Statement of Wayne Gibson, filed November 28, 2011 (incorporating by reference his original Petition); and Participant Statement of Sylvester Boyd for Concerned Citizens of Glenwood, filed November 18, 2011.

Commission Order No. 929 notes that the Petitioner contends that the Postal Service failed to consider:

- the effect of the closing on the community;
- whether a maximum degree of effective and regular postal services to the community could continue to be provided to the community; and
- the economic savings resulting from the closure.

The Commission has accurately identified several issues that pertain to this case in the conventional sense. However, this case also presents two important questions that relate to directly the Commission's administration of this, and other, cases. One concerns the Commission's filing policies and practices for "anonymous" documents, untethered to any clearly identified and accountable person or entity. The other is the Commission's position on standing in "A" cases. A third issue is late revision or supplementation of the administrative record.

A "truly" anonymous filing was docketed in this case. The Postal Service, uncharacteristically, seems eager to rely on it. See Postal Service Comments at [^]. In my experience, this eagerness is an aberration from the usual high standards the Postal Service's seasoned and responsible counsel have employed in the past. The overall press of business may account for it. At the same time, the undersigned believes that the Commission's "acceptance" of the anonymous filing the Postal Service relies on was wholly inadvertent. Unlike all other filings known to the undersigned to have been accepted by the Commission in this and other dockets, the anonymous document does not provide any contact information or other means of clarifying who is behind the filing. However, the filing does include certain observations about matters related to this appeal, including some that might be considered insulting or defamatory.

The Commission's rules or Docket Section practices may be unclear on the question of docketing anonymous filings, but developments in this case lead to the conclusion that the Commission, invoking basic tenets of due process, may want to instruct the Docket Section to decline anonymous filings. The Commission traditionally

has provided an open and fair forum to all participants. In recognition of that honorable tradition, the Commission may further consider striking the anonymous filing in this case from its electronic (and other) records, should the anonymous filer, upon being given an opportunity to provide proper identifying information, decline to do so. Portions of other filings referring to or relying on the anonymous document should either be ignored or stricken.

As for standing, the Postal Service poses a legitimate question as to whether the lessor (Petitioner Gibson) has standing. On the available facts, it appears to be in the public interest for someone who is willing to affirmatively identify himself and his relationship as a lessor (as did Mr. Gibson) to be heard. The Commission may find it prudent to instruct staff to bring questions of standing to its attention at the outset of the proceeding, instead of having standing issues raised at advanced stages of the proceeding.

II. APPLICABLE LAW

This document incorporates by reference the recitation of standards and law in Commission Order No. 974 at 6 (Part V) in Docket No. A2011-34, Innis, Louisiana.

III. CURRENT POSTAL OPERATIONS IN GLENWOOD

The Glenwood Post Office is an EAS-13 level office. As is the case in many appeals of post office closings, the postmaster's position has been vacant since a retirement (in April 2010) and an Officer in Charge (OIC) has been operating the facility.

The Glenwood Post Office has 142 post office box or general delivery customers. It does not have any customers on rural or highway carrier routes. It is open six days a week. Customers enjoy 24-hour access to the lobby Monday through Saturday. AR, Item Nos. 15 and 18.

The following table identifies revenue trends. As shown, revenue declined by a little less than \$900 from FY2008 to FY2009, and by a little less than \$2000 from

FY2009 to FY2010.

Table 1
Glenwood Post Office Revenue Trends

Year	Amount (in \$)
FY 2008	24,993
FY 2009	24,101
FY 2010	22,221

Source: Administrative Record, Item No. ^^ (Final Determination) (Section I, para. 5).

IV. THE INTERESTS OF THE GENERAL PUBLIC

The interests of the general public in “A” cases typically involve due process considerations, such as the Postal Service’s compliance with procedural requirements; the accuracy of the Administrative Record; the transparency of the Postal Service’s decisionmaking process; and responsiveness to patrons’ concerns. As stated at the outset of this filing, this case also presents independent questions of docket administration. Another issue is the Postal Service’s recent practice of amending or supplementing the record once it becomes aware of certain omissions or deficiencies. In one or more previous incarnations as a Public Representative in “A” cases, I have urged the Postal Service to take steps to ensure that the Headquarters decisionmaker has as an accurate a record as possible to rely on in making a final determination to close a post office. Although it may be strictly coincidental, the Postal Service has been filing revised and supplemental documentation in recent cases. While this is noteworthy and commendable in several respects, it also means that the revisions and supplements sometimes undermine, if not eviscerate, arguments that petitioners have spent considerable time and energy developing. This has occurred, to some extent, in this case. Perhaps the Postal Service’s recently-announced moratorium on post office

closings will provide the Postal Service and the Commission with an opportunity to address this conundrum. As it stands now, however, there is some (understandable) disconnect between Petitioners' arguments, which are based on the Postal Service's original filing, and the filing as supplemented. The Postal Service's supplemental filing, for example, noted the following revisions it was making to data and information provided in the original Administrative Record:

Item No. 17

Item 17 indicates that there would be an additional cost to discontinuing the Glenwood Post Office if customers choose to utilize street delivery.

Item Nos. 33 & 47

Item Nos. 33 and 47 indicated there will not be an additional cost if Glenwood Post Office closes. The documents should indicate that Glenwood Post Office will incur a \$11,960 cost if the customers of Glenwood opt for street delivery. The breakdown is below:

With 150 new boxes added to the route, multiplied by 3.64 hours per year, with approximately 5 miles added to the route multiplied by 10.40 hours per year would result in an additional 598 minutes added to the route, multiply that by \$20 per hour HCR hour rate will equal to \$11,960 annual cost.

Deficiencies associated with the economic savings estimate. The Petitioners, necessarily, were addressing the original filing, and each took issue with the Postal Service's conclusion that closing the Glenwood Post Office will generate savings. Petitioner Knight, for example, said: "We feel that the closing of our post office here in Glenwood and replacing it with some other service like a rural carrier will not save any money for the USPS." Concerned Citizens/Boyd Participant Statement at 2.

Others provide more specific reasons, such as the original filing's representation, in AR Item No. 17, Rural Route Cost Analysis, of a cost of zero for replacement service. Petitioner Folmar (relying on the original filing) observes, in this regard:

The plan of the Postal Service is to provide mail service with 'roadside boxes' and/or CBU's. This plan presents another expense as this would call for a re-evaluation of the rural route currently serving the area. From my viewpoint as a retired postmaster, this will, in all probability, result in requiring the use of an auxiliary carrier or another regular carrier, either of which would have to be paid scale wages plus benefits.

Folmar Participant Statement at 2. She adds: "Also, there is the loss of revenue from the post office box rents to be considered, a potential of \$8,825 at present rates." *Id.*

The Postal Service defends its savings estimate on grounds that it filed a supplement that addresses the cost of replacement service. Postal Service Comments at 12. It also indicates that another concern -- lost box revenue -- is a relatively trivial consideration. *Id.*

Omission of cost of utilities. Another item that ostensibly should enter into the savings estimate, but was missing from the original record, is the cost of utilities. Petitioner Gibson, who readily acknowledges that he owns the building in which the Glenwood Post Office is located, points out utilities run about \$4000 a year. Gibson Petition at ^..

In some instances, the cost of utilities may be included in the rent estimate or may be *de minimis*; however, Petitioner Gibson presents clear and convincing evidence in this case that utilities are a material factor and have been omitted from the Postal Service's original economic savings estimate. It would be useful if the Commission would ask the Postal Service to clearly and separately identify the estimated annual cost of utilities or explain why this estimate cannot be provided.

Decisionmaking transparency—why is the Glenwood Post Office being closed? Notwithstanding a community meeting and the Postal Service's preparation and posting of a Final Determination, Petitioner Knight notes, "Our Town Post Office represents the federal government to our residents and it is difficult for us to understand the reasonings of the USPS decision to close our little post office." Knight Participant Statement at 2. Similarly, Mayor Jackson finds "Absolutely no reason for closing Glenwood Post Office, Glenwood, Ala. 36034." Jackson Participant Statement at 2.

These Petitioners' observations are similar to those expressed by many other patrons directly affected by the Postal Service's closing decisions. However, the Postal Service typically provides a "macro" level answer about its overall financial condition to "Why our Post Office" questions. This leaves patrons frustrated and dissatisfied because the Postal Service's actions, even if driven by a major institutional policy, have an immediate and direct local impact. Patrons understandably assume that their question bears directly on "the effect on the community" and "the effect on postal services." Given that patrons repeatedly question why one office is closed out of what appears to them to be a cluster of candidate offices, it would be useful – and consistent with due process – if the Commission would direct the Postal Service to address these legitimate questions on the terms patrons expect and deserve to have them addressed.

V. CONCLUSION

The typical issues in "A" cases are overshadowed by several concerns about case administration. The first, and foremost, issue is "anonymous" filings and inappropriate reliance thereon. Fortunately, this issue lends itself to a resolution that all fair-minded persons can agree upon, based on confirmation of the Commission's longstanding commitment to due process. The Commission is well positioned to provide the necessary guidance to its staff, including a prohibition against acceptance of "anonymous" filings. Instead, as Mr. Boyd did for the Concerned Citizens of Glenwood, a real, live contact would have to be provided before the Docket Section "accepts" a filing.

Second, clarification of "standing" in appeals may be useful. Again, the Commission is well-positioned to provide any necessary clarification.

Third, correction of the Administrative Record is to be encouraged. However, this presents a problem of due process when Petitioners rely on the original, uncorrected, record in their filings. Both the Commission and the Postal Service have faced an unprecedented workload in the past year. The Public Representative in this case encourages the agencies to use the recently-announced moratorium on post office

closings to address some important aspects of administration of “A” cases for the benefit of all concerned.

Respectfully submitted,

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